

REMARKS

In the Office Action, claim 23 was rejected under 35 U.S.C. § 102(b) as being anticipated by Aldrich et al., Cell (1994), Vol. 79, pgs. 649-658, as evidenced by Brooks et al., Journal of Immunology (1999), Vol. 162, pgs. 305-313. The Examiner asserts that “the binding of HLA-E to CD94/NKG2 receptors is an inherent property of the AMAPRTLL peptide taught by Aldrich as evidenced by the post-filing date teachings of Brooks.” As the Examiner notes, evidence of inherency “must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill.” November 4, 2003 Office Action at pg. 3 (emphasis added). Aldrich does not disclose the presence of CD94/NKG2 receptor cells, and nothing in Brooks suggests that CD94/NKG2 receptor cells would be present in the teachings of Aldrich. Therefore, the binding of HLA-E to CD94/NKG2 receptors cannot be an inherent property of Aldrich. Furthermore, the teachings in Brooks were not disclosed until after Applicant’s filing date and would not demonstrate inherency to a person of ordinary skill in the art in 1994. It should be noted that the five (5) year gap between Aldrich and Brooks reflects more than just a consequence of publishing delays.

Claims 20-23, 30 and 31 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicants respectfully traverse the Examiner's rejection that "there is no disclosure, either explicit or implicit, of a distinct family of covalent heterodimeric proteins known as a 'CD94/NKG2' family." As the Examiner notes, the specification expressly states that "CD94 also associates with other members of the NKG2 family, which consists of four closely related molecules NKG2A, B, C and E and two more distantly related molecules NKG2D and F." Specification at pg. 3, lines 12-14. Based on this express disclosure of the association of CD94 with specific NKG2 receptors recited above, one of ordinary skill in the art would be able to recognize from Applicants' disclosure that the CD94/NKG2 family of receptors includes CD94/NKG2A, B, C, D, E, and F.

As to newly presented claims 32-37, they incorporate the Examiner's suggestions, and this should obviate the Examiner's lack of written description rejection. Accordingly, claim 32-37 are believed to be allowable.

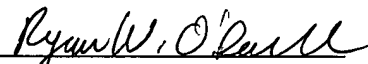
For the above reasons, Applicant respectfully submits that pending claims 20-23 and 30-37 are patentable over the prior art. Reconsideration and allowance of the claims is respectfully requested.

Applicant: Braud et al.
Application No.: 09/555,555

If the Examiner believes that an interview, in person or telephonically, would advance the resolution of any remaining issue, the Examiner is respectfully requested to contact the undersigned to arrange such an interview.

Respectfully submitted,

Braud et al.

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Enclosures